



Attorney's Docket No.: 09531-075001 / Z01088

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Matthew D. Putnam et al.
Serial No. : 10/073,942
Filed : February 14, 2002
Title : VOLAR FIXATION PLATE

Art Unit : 3731
Examiner : David Owen Reip

Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF MATTHEW D. PUTNAM UNDER 37 C.F.R. §1.131

I, Matthew D. Putnam, hereby declare as follows:

1. I am a co-inventor of claims 1-40 in the above-referenced patent application.
2. In an Office Action dated April 25, 2005, claims 1-8, 26, 27, 30, 33, 34, 37, 38, and 40 were rejected under 35 U.S.C. §102(c) as being anticipated by Orbay et al. (U.S. Patent No. 6,440,135).
3. The application that eventually issued as the Orbay et al. patent was filed on December 12, 2000.
4. Prior to December 12, 2000, and thus necessarily before the filing date of the Orbay et al. patent, my co-inventors and I performed work in this country to conceive and reduce to practice the invention recited in claims 1-40 of the above-captioned application, as evidenced by the attached figure. The attached figure shows two x-rays of a patient's wrist in which a volar fixation plate as claimed in claims 1-40 has been implanted. The attached figure shows a top

CERTIFICATE OF MAILING BY FIRST CLASS MAIL.

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

October 25, 2005
Date of Deposit

[Signature]
Signature

David Owen Reip
Typed or Printed Name of Person Signing Certificate

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Applicant : Matthew D. Putnam et al.
Serial No. : 10/073,942
Filed : February 14, 2002
Page : 2 of 2

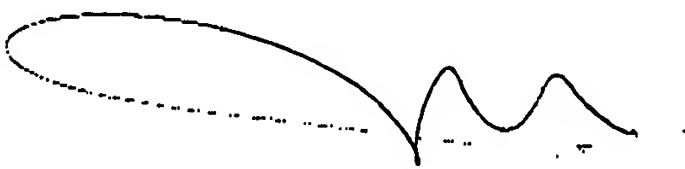
Attorney's Docket No.: 09531-075001 / 701088

view and a side view of the patient's wrist. The top view shows a volar fixation plate and tines, while the side view shows a volar fixation plate, tines, and a tensioning device. In the attached figure, the tensioning device is a bone screw. The attached figure was part of a PowerPoint presentation that was presented to a potential investor under a confidentiality agreement. The date on the figure has been blocked out. The confidential presentation to the potential investor occurred prior to December 12, 2000.

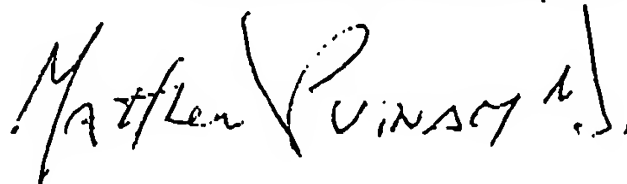
5. I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

October 25th
Date 2005

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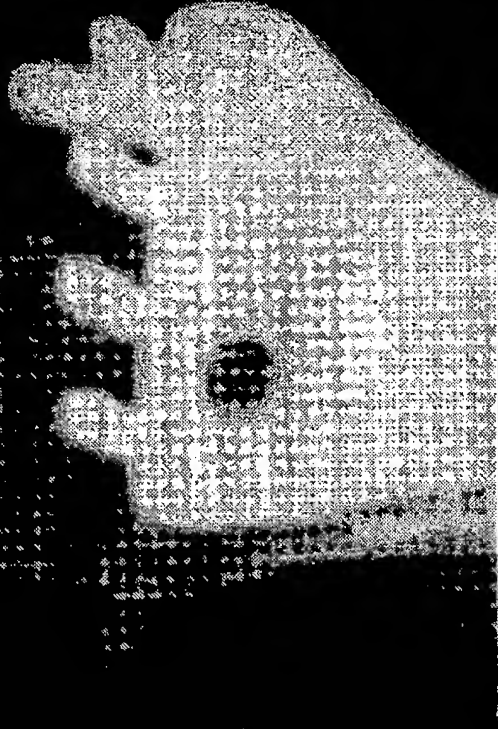


Matthew D. Putnam, M.D.



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Desired Result
Achieved,
T Time < 60
minutes



“Solid” Anatomic
Fixation
Joint supported to allow
early motion
Tines inserted without
fragmenting epiphseal
fragment



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